

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

**Maryam ASFARI et al.**

Examiner: VIVLEMORE, TA

Serial No.: 10/553,676

Group Art Unit: 1635

Filed: OCTOBER 17, 2005

Confirmation Number: 1847

Title: **INSULIN-INDUCED GENE AS THERAPEUTIC TARGET IN DIABETES**

**RESPONSE TO RESTRICTION REQUIREMENT**

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated June 29, 2007, Applicants hereby elect, with traverse, Group 3 (claims 1, 4, and 5) drawn to use of a modulator of the expression or activity of the E21G4 gene, wherein the modulator is an inducer of expression of the E21G4 gene.

In response to the election of species Requirement, Applicants hereby elect, with traverse, the nucleic acid sequence of SEQ ID NO: 1.

At page 2 of the open Office Action, the Examiner alleges that the inventions listed in Groups 1-7 do not relate to a single general inventive concept because they allegedly lack the same or corresponding technical feature. Applicants respectfully disagree with this contention. All the claims in the application involve related subject matter, for example, a method for the treatment of diabetes or its complications, obesity or insulin resistance comprising administering of a modulator of the expression or activity of the E21G4 gene. It is respectfully submitted that, in view of the totality of the disclosure contained in the instant specification, Applicants' claims relate to a single inventive concept, as stated under PCT Rule 13.1.

Furthermore, the Office Action has not demonstrated that an undue searching burden would be required to examine all groups and certainly not to examine at least more than one of the groups. "If search and examination of an entire application can be

made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct invention." (Emphasis added.) See, M.P.E.P. §803. Accordingly, the Requirement for Restriction should be withdrawn.

Should the Restriction Requirement still be maintained, Applicants will seek reentry of any withdrawn claims once allowable subject matter has been determined.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

/Anthony J. Zelano/  
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Attorney Docket No.: MERCK-3082

Date: October 29, 2007